IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR.

1.S.B. Civil Writ Petition No.4553/2004

Raj Bahadur Vs. State of Rajasthan & Ors.

2.S.B. Civil Writ Petition No.4367/2004

Hanuman Singh & Ors. Vs. State of Rajasthan & Ors.

3. S.B. Civil Writ Petition No.4368/2004

Bhura Ram Jat & Ors. Vs. State of Rajasthan & Ors.

Date of Order : 13-12-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Mahesh Thanvi,

Mr. Vijay Chaher, for the petitioners.

Mr. N.M. Lodha, AAG for the respondents.

Heard learned counsel for the parties.

At the outset, learned Additional Advocate General submitted that impugned notice dated 30.09.2004 issued to the various petitioners have been withdrawn by the respondents. Learned counsel submits that the irrigation facilities will be provided to these persons within a period of one week in view of the withdrawal of the said notice.

Learned counsel for the petitioner in writ petition No.4553/2004 submits that time demanded for restoring the irrigation facilities too long.

Learned counsel for the petitioners in writ petitions No.4367/2004 and 4368/2004 respectively submit that despite the order of disconnection of the irrigation facility which is under challenge in their writ petitions, the irrigation facility is still continuing for them.

In view of the statement on behalf of the respondents that the impugned orders to withdraw the irrigation facility of the petitioners have been withdrawn, the writ petitions have become infructuous.

So far as contention of learned counsel for the petitioner in Raj Bahadur's case that time of seven days now is too long in view of the fact that the order was passed by the respondents to withdraw the disconnection

order on 10.12.2004 and three days have already passed.

No such day to day difficulties can be redressed because it is not a grave injury of such a nature where sufficient time of even one week cannot be granted to respondent. The grievance of the petitioner appears to be more sentimental rather than accepting the realities, therefore, in view of the positive statement of the respondents that they will provide the irrigation facility to the petitioner within a period of one week does not mean that they will necessarily take seven days' time. Respondents say that they will provide the irrigation facility to the petitioner within that period and not necessarily on the last date of the time sought.

In view of the above, the writ petitions have become infructuous, hence dismissed.

Learned counsel for the petitioner have doubt that after the decision of this writ petition, the respondents may disconnect their water supply because they passed the order of restoration of the water supply/withdrawal of the disconnection notice in the light of the interim order passed by this Court only.

Learned counsel for the respondents appearing on behalf of the State in presence of the Officer Incharge

submits that the withdrawal shall be unconditional and it will not be revived simply because of the dismissal of the writ petition. However, it is made clear that since the notice of disconnection has been withdrawn by the State, therefore, the writ petitions have became infructuous but none of the parties can claim any immunity from any action which may be initiated and taken under any law and in this regard amd this order may not be treated as granting any injunction against the respondents restrained them from passing any order of disconnection in future in accordance with law and after giving full opportunity of hearing to the parties and if only when any reason is arises for doing so.

[PRAKASH TATIA],J.

Praveen